

REFERENCE TITLE: photo enforcement traffic complaints

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

## **HB 2245**

Introduced by  
Representative Gray C

AN ACT

AMENDING SECTIONS 28-1553, 28-1559 AND 28-1593, ARIZONA REVISED STATUTES;  
RELATING TO TRAFFIC COMPLAINTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 28-1553, Arizona Revised Statutes, is amended to  
3 read:

4       28-1553. Hearing officers: civil traffic violations: photo  
5                   enforcement: proof at hearing

6       A. Subject to funding by the governing body and within their  
7 jurisdictions, justice courts may appoint hearing officers to preside over  
8 civil traffic violation cases. The appointments are subject to the  
9 concurrence of the presiding judge of the superior court in the county in  
10 which the justice court is located.

11     B. A city or town may appoint hearing officers to preside over civil  
12 traffic violation cases. These appointments shall be made in a manner  
13 provided by ordinance of the city or town.

14     C. Hearing officers may hear and dispose of civil traffic violation  
15 cases under the supervision of the court. The judgment of the hearing  
16 officer constitutes the judgment of the court that may be appealed to the  
17 superior court pursuant to title 22, chapter 2, article 4.

18     D. **NOTWITHSTANDING ANY OTHER LAW, IF THE CIVIL TRAFFIC VIOLATION WAS**  
19 **DETECTED BY PHOTO ENFORCEMENT, THIS STATE OR A POLITICAL SUBDIVISION OF THIS**  
20 **STATE MUST SHOW AT A HEARING BOTH OF THE FOLLOWING:**

21     1. THAT THE DEFENDANT WAS THE DRIVER OF THE VEHICLE AT THE TIME OF THE  
22 VIOLATION.

23     2. THAT THE PHOTO ENFORCEMENT DEVICE WAS PROPERLY CALIBRATED AND IN  
24 GOOD WORKING ORDER AT THE TIME OF THE VIOLATION.

25     Sec. 2. Section 28-1559, Arizona Revised Statutes, is amended to read:

26       28-1559. Traffic case records: abstract of record: reports:  
27                   photo enforcement

28     A. Each magistrate, judge or hearing officer of a court shall:  
29       1. Keep or cause to be kept a record of each traffic complaint or  
30 other legal form of traffic charge deposited with or presented to the court  
31 or its traffic violations bureau.

32       2. Keep a record of each official action by the court or its traffic  
33 violations bureau in reference to each traffic complaint or other legal form  
34 of traffic charge deposited with or presented to the court or its traffic  
35 violations bureau, including but not limited to a record of:

36       (a) Each conviction, forfeiture of bail or deposit, judgment of  
37 acquittal or civil adjudication.

38       (b) The amount of the civil penalty, fine or forfeiture resulting from  
39 each traffic complaint deposited with or presented to the court or traffic  
40 violations bureau.

41     B. **EXCEPT AS PROVIDED IN SUBSECTION K OF THIS SECTION,** within ten days  
42 after the conviction, judgment or forfeiture of bail or deposit of a person  
43 on a charge of violating chapter 3 or 4 of this title or this chapter or any  
44 other law regulating the operation of vehicles on highways, each magistrate  
45 of the court or clerk of the court of record in which the conviction or

1 judgment was had or bail or deposit was forfeited shall prepare and  
2 immediately forward to the department an abstract of the record of the court  
3 covering the case in which the person either:

- 4       1. Was convicted.
- 5       2. Was adjudicated to have committed a civil traffic violation.
- 6       3. Forfeited bail or deposit.

7       C. The person required to prepare the abstract shall certify that it  
8 is true and correct.

9       D. A report is not required for a conviction or civil adjudication  
10 involving the illegal parking or standing of a vehicle.

11       E. The abstract shall be made on a form furnished or in a manner  
12 prescribed by the department and shall include:

- 13       1. The name and address of the party charged.
- 14       2. The number, if any, of the driver license of the party charged.
- 15       3. The registration number of the vehicle involved.
- 16       4. The nature of the offense or civil traffic violation.
- 17       5. The date of the hearing, the plea, the judgment or whether bail or  
18 deposit was forfeited.
- 19       6. The amount of the fine, civil penalty or forfeiture.

20       F. Each court of record shall also forward a like report to the  
21 department on the conviction of a person of homicide or aggravated assault  
22 resulting from the operation of a motor vehicle or any other felony in the  
23 commission of which a motor vehicle was used. To facilitate the preparation  
24 of the report, the sentencing minute entry that is issued by the court shall  
25 indicate if the person was convicted of an offense that required the  
26 mandatory revocation of a driver license pursuant to section 28-3304,  
27 subsection A, paragraph 1, 3, 4, 5 or 6.

28       G. The department shall keep all abstracts received under this section  
29 for inspection as required by law.

30       H. Each judge, referee, hearing officer, probation officer or other  
31 person responsible for the disposition of cases involving traffic offenses or  
32 civil violations committed by persons under eighteen years of age shall:

33       1. Keep a full record of each case in which the person is charged with  
34 a violation of chapter 3 or 4 of this title or this chapter or any other law  
35 regulating the operation of vehicles on highways.

36       2. Report the offense or civil violation to the department at its  
37 office in Phoenix not more than thirty days after the date on which it was  
38 committed, except that a report is not required for parking violations or if  
39 it is found that the offense or civil violation was not committed.

40       I. The report required by subsection H of this section shall:

41       1. Be made on a form furnished or in a manner prescribed by the  
42 department.

1       2. Contain:

- 2       (a) All necessary information as to the identity of the offender.  
3       (b) The citing or arresting agency.  
4       (c) The date and nature of the offense or civil violation.  
5       (d) The date of the hearing, the plea, the judgment or whether bail or  
6 deposit was forfeited.

7       (e) The amount of the fine, civil penalty or forfeiture.

8       J. Failure, refusal or neglect of a judicial officer to comply with  
9 this section is misconduct in office and grounds for removal from office.

10      K. THE DEPARTMENT SHALL NOT SUSPEND OR REVOKE A PERSON'S DRIVER  
11 LICENSE IF THE PERSON FAILS TO APPEAR BEFORE A COURT FOR A VIOLATION OF THIS  
12 TITLE THAT IS DETECTED BY PHOTO ENFORCEMENT.

13      Sec. 3. Section 28-1593, Arizona Revised Statutes, is amended to read:

14      28-1593. Service of uniform traffic complaint; photo  
15                   enforcement; manual signature; maintenance of  
16                   notification records; time for service; affidavit

17      A. A traffic complaint may be served by delivering a copy of the  
18 uniform traffic complaint citation to the person charged with the violation  
19 or by any means authorized by the rules of civil procedure. At the  
20 discretion of the issuing authority, a complaint for a violation issued after  
21 an investigation in conjunction with a traffic accident may be sent by  
22 certified mail, return receipt requested, AND delivered to addressee only to  
23 the address provided by the person charged with the violation. Service of  
24 the complaint is complete on filing the receipt in the court having  
25 jurisdiction of the violation.

26      B. The original complaint shall be filed in a court having  
27 jurisdiction of the violation within ten court days of the time the complaint  
28 was issued. A peace officer or duly authorized agent of a traffic  
29 enforcement agency may issue the traffic complaint. FOR COMPLAINTS ISSUED AS  
30 A RESULT OF PHOTO ENFORCEMENT, THE COMPLAINT SHALL BE MANUALLY SIGNED BY A  
31 TRAFFIC ENFORCEMENT OFFICER OF THE POLITICAL SUBDIVISION ISSUING THE  
32 COMPLAINT.

33      C. IF THE VIOLATION IS DETECTED BY PHOTO ENFORCEMENT AND THE COMPLAINT  
34 IS SERVED BY A WRITTEN NOTICE, THE POLITICAL SUBDIVISION THAT ISSUES THE  
35 COMPLAINT SHALL SEND A COPY TO THE DEPARTMENT. THE DEPARTMENT SHALL MAINTAIN  
36 ALL PHOTO ENFORCEMENT COMPLAINT NOTIFICATIONS RECEIVED PURSUANT TO THIS  
37 SUBSECTION.

38      D. NOTWITHSTANDING ANY OTHER LAW, IF THE VIOLATION IS DETECTED BY  
39 PHOTO ENFORCEMENT, THE COMPLAINT MUST BE SERVED NO MORE THAN THIRTY DAYS  
40 AFTER THE DATE OF THE VIOLATION.

1           E. NOTWITHSTANDING ANY OTHER LAW, AFTER A PERSON SERVES ANOTHER PERSON  
2 A COMPLAINT RESULTING FROM PHOTO ENFORCEMENT, THE PERSON SERVING THE  
3 COMPLAINT SHALL SIGN AN AFFIDAVIT STATING THE FOLLOWING: "I HEREBY CERTIFY  
4 THAT I HAVE REASONABLE GROUNDS TO BELIEVE AND DO BELIEVE THAT I SERVED THE  
5 PERSON NAMED IN THE PHOTO ENFORCEMENT COMPLAINT." A FALSE CERTIFICATION  
6 UNDER THIS SUBSECTION IS PERJURY. IF A PERSON COMMITS PERJURY UNDER THIS  
7 SUBSECTION, THE PERSON SHALL NO LONGER BE A PROCESS SERVER IN THIS STATE.